

February 28, 2008

Bruce Wolfe, Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Tentative Order for the Municipal Regional Permit (MRP) – December 4, 2007, Revised December 14, 2007

Dear Mr. Wolfe:

This letter is to provide written comments from the Town of Moraga on the Regional Water Board staff's December Tentative Order for the Municipal Regional Permit for Discharges from Phase I Permittees in the San Francisco Bay Region (Tentative Order). We also endorse the Comments of the Contra Costa clean Water Program, BASMAA and the Contra Costa City-County Engineering Advisory Committee. The following detailed comments were prepared by Town staff and we urge you to give them serious consideration.

General Comments:

The proposed permit requires that collection and reporting of an extraordinary amount of information that goes well beyond what is now collected. It is unclear how diverting resources from implementation of BMP's to collect data for the Board, which should be collected by the Board itself, and creating an enormous amount of records contributes to improving water quality.

Compliance dates for various activities do not seem to be coordinated from provision to provision. Items to be evaluated for implementation in one provision are already mandated in another provision with an earlier implementation date. Examples are:

- High efficiency sweepers
- Parking restrictions
- Diversion of dry weather and first flush flows

References to who (organizationally) completes obligations under the Permit are not clear and are a problem throughout as the meaning of terms used appears to change. Some seem to be regional, others countywide program, and others the Permittee. This confusion seems to be because the use of "collaboratively", "regionally", "Permittees collaboratively", etc. varies. This affects the understanding of the number of sites/activities to be mobilized under the MRP and if the count is by the region, the program, or the Permittee.

Requirements repeat without apparent acknowledgement of a prior same requirement. Are these intended to be for the same site, or different sites for these requirements? For instance:

- Pilot project to evaluate on-site treatment for mercury Oct '09
- Pilot project to evaluate on-site treatment for PCB's Oct '09
- PDBE's, legacy pesticides, selenium Oct '12
- Diversion of dry weather and first flush flow Oct '10

Measures discuss the evaluation of reduction in numerous pollutants. However, there is no discussion of the baseline data sources, or protocols to develop baseline data.

The Permit variously requires industrial inspections related to equipment and processes. It requires “proper” BMP’s be used. What are the “proper” BMP’s and who decides, as the co-Permittees are municipal agencies and not expert in industrial equipment and processes such as:

- PCB containing equipment
- Copper related to plating and metal finishing.

The Permit requires either directly, or impliedly, the creation of databases to store information. There seems to be 12 new databases and 3 “SWAMP comparables” required. Board staff should prepare the templates for these databases to ensure complete and uniform information submittal from Co-Permittees.

The Permit variously refers to templates in Attachment L but we are left to conclude that these are the “examples” after page L-110. We also conclude that where ever Attachment L, Section III mentions “Table” it’s referring to those examples.

When an Attachment is required, what is the required format of the information?

Attachment L, Section III appears as if it is to be a complete list of material to either be submitted electronically or attached to Annual Report form. However, there are a significant number of reporting requirements contained in the Tentative Order text that are left off of Section III and there does not seem to be a discernable pattern as to why. It is unclear what constitutes a full report as some sections say “use the forms (L) and others don’t, while some sections say “in addition to answering the following questions attach...” Can the Board clarify?

Also, Attachment L talks about material to be attached and material to be submitted electronically. In some areas the following Summary Table seems to be the items that fulfills the “attached” requirement and in others not. Generally, the layout and intent of the Summary Table is confusing. In some places, Section IV seems to be the “attached” information referred to in Section III. In other places it seems that all material to be submitted as referred to in Section III are a set of documents separate from Section IV entirely. Please clarify the standing of the “attachments”, “tables”, the “electronic submittals” and the “Summary Table”.

C.2 Municipal Operations

C.2.a indicates that there shall be a designation of frequency of streets sweeping with high, medium and low volume of traffic being one criterion. As there is no objective criteria for the high, medium and low traffic zones, this should be based on the Town general plan and average daily traffic (ADT) counts. Is it mandated that there be three categories, or are less allowed at the discretion of the local agency? This section also indicates that high frequency is to be 2 times per month. This street designation is for immediate implementation. However, by comparison, C.10.c.i (1) requires enhanced trash management controls also be immediately implemented with at least weekly sweeping. In light of Board staff indicating skepticism about sweeping effectiveness, which requirement prevails, C.2.a or C.10.c.i (1)?

C.2.a also indicates that there is reporting of swept curb miles. This has been taken to be based on the total street miles from the street superintendent’s report. The reporting form seems to indicate that the number would be street report curb mile times the number of times swept. Is that the case or is it as we have been reporting? Similarly for volume, is it on an event basis, or total annual amount? Finally, streets without curb and gutter should be exempted entirely.

C.2.b requires that replacement equipment be 75% high performance sweepers. Many cities rely on contract sweepers to perform this service. Does this requirement mean that unless the service provider can meet this requirement, they are to be deemed not technically qualified to perform the service? Also, there are a limited number of local sweep service providers. Eliminating any from the bidding process may render the process non-competitive or leave agencies that do not have their own sweepers without a sweeping service.

C.2.b requires reporting the summary of verification of proper sweeping results. What verification is contemplated for proper sweeping? Our practice is to periodically follow the sweeper to observe effectiveness. Is it to be considered

verification if training, maintenance and operating speed are confirmed from submitted written records? Will a written letter of certification from contract sweepers be acceptable?

C.2.d requires that the compliance with mobile washing requirements be reported. Most mobile washing is done during late night hours, and the municipality is typically not informed of the washing schedule for private property. Does the Board require that night time policing activity include looking for and monitoring compliance of mobile washers? Is staff required to have late shift hours to have staff patrol to observe mobile washers, or does the Board have some specific activities to engage in to verify compliance? It also refers to implementing the BASMAA Mobile Surface Cleaning Program. That Program allows discharge to the storm drain after filtration or dry cleaning, but the MRP prohibits discharge. Please clarify this apparent conflict.

C.2.e requires reporting graffiti removal compliance. Is more required than the report in the Summary Table on page L-18?

C.2.f requires “keep and maintain ... records ... for all drain inlets/catch basins...” does the Board mean individual inlet records or for all inlets as a group. To report individually would mean the unreasonable measuring the material removed, categorizing, etc, as well as creating the database, and inlet tracking/numbering system to maintain the information.

In C.2.h.i the "portion thereof" should be a percentage because as written any watershed with a 1 acre home site becomes eligible. Further, why should we have to notify the Board, Fish and Game, and the Corps if we need to do road maintenance - this seems to imply the elements of a new permit program so we can work on our own roads. What defines near a creek.

C.2.h.ii.(1) requires the development of BMP's for erosion control during and after construction of rural roads. Has the Board certified, or does the Board plan to certify any existing BMP's as complying with the requirement. Similarly, for C.2.h ii (2), a number of management practices related to construction and maintenance are required to be implemented. Does the Board have, or plan to have, guidance material that will assist in the development of complying management practices. Absent such guidance, how will agencies know what is wrong with current practices, and when their efforts have been spent profitably creating management practice documents?

C.2.h.ii (2) (b) requires the “[I]dentification and prioritization of rural roads that need increased maintenance on the basis of soil erosion potential. In order for local agencies to receive their primary road maintenance money (Self-help county sales tax local share, Prop 111 and Gas Tax), the pavement must be managed using a pavement management system (PMS) approved by MTC. That system must prioritize a list of roads for repair based on the pavement condition index. If this is deviated from the agency will lose its state roadway maintenance money for not complying with the legal requirements to receive that money.

C.2.h.ii (3) (f) requires the regrading of the roadway section to “...slope outward...” The geometric design of roadways is dictated by the AASHTO “Policy on the Geometric Design of Highways and Streets”. This sets forth the general roadway section recommendations for high point at the crown and 1.5 to 2% slope to the edge of pavement. It also calls for erosion control measures of a minimum of seeded topsoil. The cross section and the need for super-elevation in curves are further dictated by the Caltrans Highway Design Manual. These standards can not be varied from.

C.3 New Development and Redevelopment

Section C.3.b changes the point in processing when new or changed regulations become applicable to development projects and to public works projects. The change for development projects is from when a project is “deemed complete” to when a project has “received final discretionary approvals”. This is unacceptable. One of the reasons for previously selecting the “deemed complete” point is that considerable design effort and public agency review and comment have been expended to establish that a project application is complete and has addressed all the applicable codes, policies and standards. After that point review is to comment on the merits of the project and whether codes, policies and standards have been properly applied to the project and whether the project complies with other discretionary determinations such as design review standards, zoning regulations, planned unit development standards,

and general plan land use regulations. Final discretionary approval comes at the legislative body (not advisory agency) approval. At this point the project is frequently at the 40-60% construction drawing stage. This is extremely late in the process to have a project at risk for changes in regulations and is unacceptable. Further, when environmental certification is required, this must begin within 30 days of receipt of an application and is to be based on the project application. Environment certification for large projects can and frequently does take up to a year. With the change proposed the likelihood exists of a changing project during the environmental process beyond the control of the applicant.

The date for public works projects, the point in processing when changes are not applicable, is changed to when funding has been committed and construction is scheduled to begin by July 1, 2010. This change is unacceptable given the process of funding and constructing public works projects. The reality of public works projects, other than routine maintenance, is that frequently multiple funding sources are required for a project. These sources each have their own set of rules for funding allocation, beyond funding commitment, that include no work beginning before the resource agency has approved all funding documentation. Many agencies have multi-year capital improvement programs (CIP) because of such lengthy processes. It is not uncommon for an application to be successful for State or federal agency grant funding, have the project budgeted in a local agency CIP, but because of the grant funding cycle and stipulations that no expenses be incurred prior to full grant funding approval requirements, it could be years before design has begun, well after local agency funding commitment. All this budgeting is based on the best guess cost estimate at the time the grant application is prepared and submitted.

Section C.3.b also changes the definition of what part of roadway construction (new and rehabilitated) falls under the provision. For new construction, sidewalks, bike lanes and trails wider than 10 feet are now captured by the provision. How does adding this category of surfaces that promote reduction of vehicle use support clean water efforts?

More importantly, the reasoning behind the revised provisions that apply to expansion and rehabilitation are very difficult to understand and is unacceptable. The physical conditions that existed under the current Permit are the same conditions that will exist. Within the boundaries of most local agencies the existing streets and the abutting constraints due to buildings and sidewalks will not have changed. The fact of reconstructing a street seems irrelevant to changing the requirements; there is no newly available site to construct IMP's as part of a street maintenance project and no new impervious surface is created. While the dollars spent on street maintenance will remain the same, this change will result in less maintenance and more pollution from silt and broken pavement debris on un-maintained roadways.

C.3.b.iii refers to a template in the annual reporting forms. We assume this is among the examples after page L-110. This section requires a number of data items that do not seem relevant or necessary for Board purposes. These new data items will require the restructuring of databases already in use that were already required by the Board. Items that do not seem to add anything to the report but volume and are contained in the final approved Stormwater Control Plan which are to be part of the permanent file are:

- Developer's name
- Phase number
- Source control measures
- Site design measures
- Hydraulic sizing criteria, and
- Reviewing agency

Section C.3.d requires reporting using the Summary Tables required for C.3.b.iii. Is there anything intended to be reported beyond the hydraulic sizing criteria of C.3.b.iii?

C.3.d also makes a change to the requirement for infiltration in that it now requires 2' feet of fine grained soil in the flow path. What is meant by fine grained soil, as soils that contain clays are fine grained but do not infiltrate well? It had been our understanding that the 10 foot separation was to create the necessary filtration bed. Does our standard of 18 inches of engineered soil and 5 in/hr infiltration rate still meet this requirement?

C.3.e.i limits alternative compliance to less than 1 acre as item (1). Item (4) seems to contradict item (1). What is intended?

In C.3.g when calculating the post-construction runoff, retention and detention are to be considered as impervious surfaces. We recognize that a saturated surface is the same as an impervious surface. However, this does not apply in this case as the water that fall in the retention/detention device will be retained as if it had fallen on pervious soils. Why is this restriction being imposed?

C.4 Industrial and Commercial Site Controls

C.4.b requires that Permittees inspect all commercial industrial facilities, including the “NOI” facilities covered by the State Industrial Permit. Some portion of the fee collected by the State must be diverted to local agencies or reimbursement established to compensate for performing these activities for the State. Will the State provide training for local agencies in the enforcement of the State General Permit requirements? The State website shows the 1997 Permit and an apparent draft 2003 version. Which version is to be used in enforcement? Will the State provide updated lists of NOI’s directly to the cities as they are covered under the Permit or will the cities have to search through State websites, as in the past, to find the information?

C.4.c requires specific records be maintained of inspections and follow-ups. It also says additional records shall be made available to the Water Board. What are the other records that would be made available?

Section C.4.d requires training in the State Industrial Permit. Which one is intended, the current 1997 version or the 2003 draft and will the State provide this training? The Summary Table (forms) indicates the reporting of an attendance %age. This section indicates reporting the number counts. Which is desired?

C.5 Illicit Discharge Detection and Elimination

C.5.b says an ERP is required. C.4 also requires an ERP. Are these the same document or is a specific ERP required for each provision where it is mentioned? For Tier One violations, what would be considered “significant” volume?

At C.5.b.i (3) (c) it states that “If the Permittee is aware of a Tier One violation that does not enter the municipal conveyance, the Permittee should notify the Water Board within 48 hours. It seems that if a discharge does not enter the municipal conveyance, it would not be a violation, Tier One or otherwise. Why would the Board need to be notified of something that didn’t happen? Wouldn’t the intent be to notify the Board if the discharge did enter the municipal conveyance?

C.5.f requires annual reporting of the illicit discharge activities for the “next” year based on “last” year. It is unclear what would be the first year for the activity to be reported as, except for the ERP requirement, the other tracking activity is already in place?

C.6 Construction Site Control

C.6.b is a requirement for an ERP. Is this the same ERP as is required in C.4 and C.5? The section talks about the various enforcement actions. Notices of Violation are not listed. Are these included in another action category, or is that terminology no longer in use?

C.6.c requires that the Permittee designate a minimum set of BMP’s for site operators and clarifies that among the items to be implemented are SWPPP’s. Local agencies now require that developers with site disturbance of 1 acre or more obtain coverage under the State General Construction Permit, Is more being implied here than what is currently being required as this is new language?

C.6.c also requires the stabilization of active slopes during rain events. Typically slope stabilization is required for areas that are not in production, or will not be in production for two weeks. As written this would apply to all slopes any time of the year. This should be limited to rainy season and slopes that are not in production. What is the basis of the probability of rain that the Board will look to during the non-rainy season as slope stabilization can be a significant effort and will generally take an area out of production for a significant period of time? Will alternative methods be allowed such as silt basins or filtration devices?

C.6.c seems to indicate an expansion of local agency responsibilities into the area controlled by the State General Construction Permit. The reporting requirements specifically call out that the local agency shall report and include a copy of the minimum set of BMP's for sites **over** one acre. Sites over one acre are controlled by the State Permit. Is reference to those requirements sufficient as local agencies do not want to be in the position of specifying at crossed purposes to the State Permit, nor do they want to assume responsibilities for plan development under the State Permit. Was the citation meant to say sites **under** one acre?

C.6.e, f and h overlap in reporting inspection. These should be combined into one provision discussing type, content, frequency and tracking of inspections.

C.6.h requires the "numeric" tracking of all violations. We assume this simply means assigning a unique number to each violation.

C.7 Public Information and Outreach

C.7.a requires that all inlets on private streets be retrofit with a "Drains" placard. As a practical matter, the local agency will need a legal entity to hold responsible for the retrofit work on private property. Not all private areas have home owner's association that can be approached to implement this requirement. Absent that, as written, the local agency would have to do the marking as there is no obligation "running with the land" that could be enforced. This is unacceptable. It is not clear that a local agency has the authority to enter and perform this type of work on private property without there being some form of nuisance to be abated. Also, there is a risk of violating the government code related to a "gift of public funds" as the local agency has no recourse for reimbursement. Finally there is an issue to examine about exercising domain and control and the risk that full maintenance and legal liability could fall to the local agency. In such cases, will there be exemptions granted, as the provision as written is unacceptable?

Under the C.7.a.iii reporting requirement, by "report the municipally maintained inlet marking", we take this to mean those in the public right of way.

Regarding C.7.e and .g, there seems to be a compounding of requirements. Previously all public involvement events counted as part of the outreach events. Now they are broken into outreach and involvement with a combined number for both that significantly exceeds the prior combined requirement. This is unacceptable. There are a limited number of community-wide events, and the smaller the community, the lesser the resources and opportunity.

C.8 Water Quality Monitoring

There are a number of sections of this provision that do not seem to have reporting requirements until Section C.8.e, "Monitoring Projects". C.8.e and C.8.f refer to C.8.h. We presume all the reporting requirements then embodied in C.8.h.

C.8.c in referring to locations for sampling pursuant to Summary Table 8.1 refers to Walnut Creek (below the confluence of Lafayette Creek). We believe that the creeks in that area are Las Trampas, Tice and San Ramon. The three come together in central Walnut Creek to form Walnut Creek. Is the confluence of Las Trampas and San Ramon what was intended?

Section C.8.d refers to wet weather flow-weighted composite samples. Can a definition please be provided for flow-weighted composite?

Section C.8.e regarding pump station monitoring, states that the 10 worst be selected for investigation. This seems to infer that this is a regional collaborative effort. Is that what is intended?

For the geomorphic project, the requirement is to select a waterbody/reach and collect data such as "formally surveyed channel dimensions". Such a project should be a Program or Regional effort.

C.8.e.v seems to indicate that results are to be reported in the annual report and in a separate report, such report to be submitted within 6 months of completion. Are two reports in fact required?

Section C.8.f requires the development of a “robust sediment delivery estimate/sediment budget”. Define what is meant by this phrase.

C.8.h requires the submittal of data in a SWAMP format. Using the link provided reveals an extremely detailed and dense data outline. Board staff should be providing the electronic form development so that the Permittees will have compatible data formats. Also, further on in the monitoring section other reports are required in the SWAMP format. Can the one format be used for all required data submittals or will individual formats/files need to be created for each dataset required (C.8.h.i, C.8.iC.10.b.ii, etc.)?

C.8.h.iii discusses an integrated report. C.8.h.iv discusses content, but C.8.h.ii has a required report and its content differs from h.iv. Please clarify what is required.

The report content is to include “Exhibition of pollutant load...” What does this mean?

C.9 Pesticide Toxicity Control

C.9.a requires an IPM ordinance or policy. What are the minimum requirements for such an ordinance or policy?

C.9.b requires a Standard Operating Procedure. What is the approved resource for an IPM SOP?

C.9.e suggest that the local agencies should “Track and Participate in Relevant Regulatory Processes”. This is unacceptable. How does the Board anticipate that local agencies will have the skill and resources to track the activities of the EPA in the implementation of the Federal Insecticide, Fungicide and Rodenticide Act and the Clean Water Act if the state agencies can’t themselves? Similarly, how does the Board anticipate that the local agencies will have the skill and resources to monitor the California DPR in its activities and to encourage them to coordinate their activities with the California Food and Agriculture Code if the State doesn’t do it?

This section also requires the assembly and submittal of information (such as monitoring data) to the California DPR and County Agriculture Commission. Please provide more guidance about what monitoring information is contemplated as this section does not impose a task of monitoring?

Permittees are “as appropriate” to submit comment letters on EPA and California DPR on re-registration and other activities relating to pesticides of concern. This is unacceptable as local agencies do not have appropriate experts on staff such as wildlife biologists or, in many cases, water quality chemists, to develop “appropriate” comment letters?

C.9.f. refers, in global terms, to reporting violations of pesticide regulations such as illegal handling associated with stormwater management. As courts decide what is illegal, and we are not experts in illegal actions and not necessarily aware of what would constitute a violation of the law, can the Board provide some guidance of a practical nature as to what is expected, such as, all applicators shall have certification from whomever, etc?

C.9.h. requires the documentation of Public Outreach effectiveness measures. It states that documentation can include the change in the percentage of residents using certified IPM providers. As written this means pre-outreach surveys to see what is the population of residents using certified IMP providers. It also means that the same respondents be surveyed after public outreach and that the initial information be adjusted for any residents that have left to ensure some statistical integrity. This is an unacceptable burden. What other measures does the Board envision as meeting this requirement? Who certifies IPM providers?

As written the reporting of C.9.h.v is unacceptable. In reporting the percentage of PCO’s and landscapers reached and the reductions in pesticides used, what is the basis for the population of PCO’s and landscapers reached, telephone book listing for the community or businesses licensed in the community? What should be done for communities that do not have business licenses or any phone listings for PCO’s or landscapers? Most, if not all such providers serve multiple communities. How is this to be accounted for to prevent the wasted effort of sorting out who is reporting whom?

C.10. Trash Reduction

C.10.b overlaps with C.2.b and C.12.d. C.2.b makes curb clearing of vehicles an out reach item, but C.10 and C.12 make parking restrictions mandatory. Mandatory parking enforcement as a blanket requirement is unacceptable and should be left to the discretion of the local agency. We request that those provisions require outreach only. Many communities have areas of high density, multi-use housing. While the various developments may meet the zoning conditions, there are many home businesses, and families with more than the two cars due to children of driving age or extended families. Also, there are small lot single family zones to provide more affordable housing resulting in reduced on site parking and the need for street parking. Cities can not always ensure that sweeping is done in the mid-day when most residents will be away.

C.10.b. (2) requires the installation of full capture devices with drain inlet inserts being one devices for consideration. Inserts make the accomplishment of the full capture program sound doable, but inserts risk clogging and obstruction of high flows causing storm flooding risk. This means that a more structural solution is needed. Some sort of in-line devices will be more practical but more costly for the urban areas. The implementation date needs to be delayed to 2015 to allow more time for device, development and searching out and qualifying for grant funding.

C.10.c requires the development of a long term trash abatement plan that can be developed by “[T]he Permittees, acting individually or collectively” to be submitted by October 2012. Referring to the “General” comments above, define “collectively”.

In C.10.d. the paragraph regarding the October 2011 report refers to C.10.d regarding the Long Term Trash Plan. Should this reference be to be C.10.c?

C.11 Mercury Controls

How does one estimate the amount of mercury in a device?

What is the report format contemplated for the C.11.b reporting?

C.11.d talks about pilot programs that include retrofits for the control of mercury. Does the Board have information about what sort of retrofit will control mercury? As the statement in the Permit is a long sentence with multiple objects it is unclear just what “via...retrofits...” refers to.

C.11.e requires that the Permittees, within three years, develop a scope and estimate for the pilot project, budget it when there is no prior experience to rely on, prepare detailed scope and estimates, have the project funded, bid the work, award the work, appropriate the funding, and construct the work. This is an unrealistically short period of time given the research and development nature of this activity and the public process necessary to make it happen.

C.11.f talks about working with the POTW on a county, watershed, or regional basis. Does this mean that all programs can work together to select the 20% or is it within each Program area? Also, it talks about working with the POTW on feasibility and cost sharing agreements, however, it does not talk about potential capacity problems that an individual POTW may have. What is to happen in the event of POTW capacity problems?

C.11.g talks about demonstrating progress toward loading milestones. What is the baseline, how is it developed and by whom? What are the loading milestones?

This section also talks about reporting methods used to meet the WLA. Where are references to what the WLA’s are?

C.11.i requires Permittees take action to manage human health risks. Isn’t this the role and authority of the various Public Health Agencies, and not the Permittees? How are the Permittees to involve themselves in the Public Health domain?

C.12 PCB Controls

C.12.a requires the development of training materials and the training of inspectors in the identification of PCB's and PCB containing equipment. This is the responsibility of the public health agencies. Where is the local expertise to come from to do such identification? Municipal inspectors are trained in the inspection of site development, public infrastructure construction, and building code enforcement, not industrial chemical and equipment inspection for toxic materials.

This section requires the referral of any finding to the appropriate regulatory agencies. Who are the appropriate agencies to regulate PCB's and PCB using equipment?

This section also requires evaluation of "...disposal regulations/programs (e.g., municipal ordinances, RCRA, TSCA)". Are not State laws enforced by the State in conjunction with solid waste authorities and not the Permittees? It also talks about a sampling and analysis plan for a minimum of 10 sites throughout "Permittees' county areas". Does this mean collaboratively among all Programs?

C.12.c regarding pilot programs for PCB sources states "Permittees working collaboratively..." Does this mean a Regional effort is contemplated among all programs?

What are considered to be potential PCB sources, and is the testing to be water tests, or basin land testing? Also, what are visual clues? Who are the "other appropriate agencies" that the Permittees are to report to?

C.12.d talks about curb clearing parking restrictions, C.2.b talks about public outreach on the need to clear the curb, and C.10.b talks about enforceable restrictions. Mandatory parking restriction are not acceptable for the reasons mentioned above (C.10.b). Also, the implementation and reporting dates need to be coordinated.

C.12.e seems to be calling for a collaborative (to be defined) effort for mercury. Are these the same sites that were required for mercury? Under sub paragraph iii, how many sites are to be selected, the same number as for mercury?

C.12.f calls for the selection of 20% of the existing pump stations. This wording is virtually word for word C.11.f.i. The reporting date is different, and it is unclear what is intended. What is the requirement that is to be implemented?

C.12.g requires a program to monitor loads and quantify load reductions. What and where is the baseline information on which to base reductions?

C.12.f requires a "Fate and Transportation Study..." Does fate mean the eventual disposition of the PCB's? Also, is this to be done as a Permittee, Program or Regional activity?

C.13 Copper Controls

C.13.c talks about reporting "...depending on the progress of the BPP project... after the decision point..." What does "depending on the progress and decision point" mean?

C.13.d requires the development of training materials and the training of inspectors in the identification of industrial facilities likely to use copper. Where is the expertise to come from to do such identification? Municipal inspectors are trained in the inspection of site development, public infrastructure construction, and building code enforcement, not industrial chemical and equipment inspection for toxic material.

C.13.d also requires the "...reporting on BMP implementation, compliance and enforcement for the next Permit term". What does this mean?

C.13.e requires the Permittees conduct technical studies "... to investigate possible copper sediment toxicity and technical studies to investigate sub lethal effects on salmonids. Isn't this an activity more properly implemented by the Department of Fish and Game, or the State Water Resources Control Board under the programs supporting its "Policy

for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California”, or Water Quality Order No 2004-0009-DWQ?

C.14 Polybrominated Diphenyl Esters (PBDE), Legacy Pesticides and Selenium

C.14.a requires the development of a PBDE/Legacy Pesticide/Selenium to determine:

- If they are in urban runoff
- If they are evenly distributed
- If storm drains or other surface drainage pathways are sources.

The report on characterization is required in 2 years from adoption. This time table does not take into consideration the time required to prepare a competent Request for Qualifications, assuming staff have the skill set to prepare such an RFQ, select the qualified consultants, prepare and advertise a Request for Proposals, analyze proposals, negotiate a cost, award the work and accomplish the work. If drainage pathways and urban runoff are what is to be analyzed, it would seem this activity would need to run through a rainy season. This schedule will have to be revised as it seems impracticable as presented.

This section also talks about identifying control measures and/or management practice to eliminate or reduce these pollutants in runoff.

C.15 Exempted and Conditionally Exempted Discharges

C.15.a talks about “Uncontaminated and unpolluted groundwater infiltration among the discharge types. What is meant, as any water in the ground is groundwater?”

We understand that C.15.b identifies conditionally exempt discharges that are either determined to be non-polluting by the Permittee or the Executive Officer, or that meet a set of Required BMP’s/Control Measures and not requiring specific Board approval. Second, among the BMP/Control Measures, one is that if there is no alternative sanitary sewer to dispose to then the discharge can be to the storm sewer. The intent was to create the option for a conditional discharge and this makes it sound as if there can not be such a discharge if there is an available sanitary sewer. Finally, are the Required BMP’s/Control Measures a list of “ands” meaning all must be satisfied, or is it “some” or the majority of the items?

At 15.b.i. (1) b.iii the Permittee is to report unplanned, planned and emergency discharges. Does this mean that the Permittees are to attempt to determine who might be a potential discharger and attempt to monitor that activity? The requirement calls for the time duration to be reported in military time. Isn’t what is meant is that the hour of the day be in military time as duration is in hours and minutes and doesn’t make sense relative to military time.

At 15.b. iii.(2) Permittee are required to address non-routine breaks, fire flows, etc. Many of the service agencies are semi regional (EBMUD, Contra Costa Consolidated Fire, Contra Costa Water District, etc). Because of the regional nature of many services this is an activity more properly conducted by the Board.

Also, notification is required within 24 hours of the event. This does not allow for weekend or holiday discharges. Can this be amended to say 24 hours or first business day after the event if on a holiday or weekend? Also, by whom and how are the water volume and chlorine content to be measured?

In C.15.b.iii (2)(c)(iv) and (d)(ii) I believe the reference should be to C.15.b.iii., not to iv.

In C.15.b.iii (3) the Permittee is to employ BMP’s that do not interfere with immediate emergency response. Can the Board provide practical examples that they have seen used that will not interfere, or risk interference, with emergency response, as plugging the storm drain and collecting the runoff to storage are not practical suggestions? Under the reporting requirements “being determined by Board”, how will that be done timely, how is the Board to know the nature of the event, and who is to advise the Board?

At 15.b.v for hot tubs, pools, etc., Permittees are to improve outreach to ensure implementation of BMP's. How can the local jurisdiction be aware of all discharges to ensure use of BMP's and effectively prevent someone from making an illegal discharge who may know better?

C.18 and C.21

These sections need to have dates coordinated.

Glossary

Under Illicit Discharge and in the last paragraphs of C.15 the terminology "Prohibition A.1" and "Section A" is used. Past practice has been to refer to these as "Provision A".

Under Infiltration Device, the definition says it has 2 feet of fine grained soils. Contra Costa designs are based on 18 inches minimum. Is this a directed change or is it merely figurative?

Attachment L **Section III Material to be Submitted**

General:

See the General comment about the Attachment L confusion regarding what is "attached", "hard copy", and "electronic".

This section talks about submitting "Tables" and "Attachments". Tables are assumed to be the examples after page L-110.

Is there a required format for the tables and attachments to be submitted?

C.2 Municipal Operations:

The Permit and the Summary Table talk about the submittals for C.2.b, Sweeping Equipment and Operations, C.2.d Pavement Washing, C.2.e Structure Cleaning and Graffiti Removal and Inlet Marking, but these are not listed in the list of materials to be submitted. What is the disposition of this material to be?

For Attachment C.2.g.ii and the Permit talk about reporting for items (1) through (3), but data is to be collect on dry weather and first flush flows. Should that not be reported here? The listing does not say if the information is to be submitted in hard copy or electronic. What is required?

C.3 New Development and Redevelopment:

C.3.c has a reporting requirement but this is not listed and there is no instruction about its form of submittal. What is required?

The reporting requirements of C.3.h.iii (1) and (2) are listed but not (3). Is there no reporting for item (3)?

For C.3.i there appears to be a requirement for reporting ordinances, permit conditions and the like for single family residences but there is nothing listed nor is there anything in the Summary Table. What is required?

C.4 Industrial and Commercial Site Controls:

Provision C.4.a requires reporting the status of legal authority for Industrial/Commercial site controls but nothing is listed for submittal. What is required, electronic or hard copy?

Regarding C.4.d, the Permit talks about a list of facilities (1) and inspections performed (2). However, the Summary Table talks about an inspection plan. What is required?

C.4.c talks about reporting enforcement actions. The Permit text talks about putting the information in a template form per Attachment L. For this item, Attachment L Summary Tables talks about submitting the ERP. What is required?

There is no listed submittal requirement for C.4.d but the Permit text requires training records. What is required?

C.5 Illicit Discharge Detection and Elimination:

Permit text for C.5.a requires reporting the legal status to implement an ERP. The Summary Table talks about it as well but there is no listed submittal requirement. What is required?

Is the submittal for C.5.b to be electronic or hard copy?

The Permit text and the Summary Table talks about reporting for C.5.c, Spill Response, but there is no submittal listing. What is required?

The description for C.5.d does not match the Summary Table or the Permit text. What is required?

The Permit text and the Summary Table for C.5.f require reporting plans for the following year regarding the ERP but nothing is listed in the submittal requirements. What is required?

The Permit text and the Summary Table require the training in the IDCP under C.5.g be reported but nothing is listed. What is required?

C.6 Construction Site Controls:

C.6.a requires reporting the legal status for Construction Site Controls. The Summary Table has a form for this information but there is no submittal requirement. What is intended consistent with the Section III instructions?

For Attachment C.6.b there is no indication of electronic or hard copy. What is required?

There is no indication of submittal of C.6.c.iii. What is required?

The Permit text and the Summary Table refer to reporting for C.6.d but there is no listing. What is required?

There is a listing for Summary Table C.6 Construction Inspections. Is this meant to be C.6.e?

C.6.f has a reporting requirement and it is included in the Summary Table, but there is no listing. What is required?

C.6.g has a reporting requirement and it is included in the Summary Table, but nothing is listed. What is required?

C.7 Public Information and Outreach:

In Permit provisions C.7.a, Storm Drain Inlet Marking, C.7.b, Advertising Campaign, C.7.c, Media Relations, C.7.d, Stormwater Point of Contact, C.7.f, Watershed Stewardship Collaboration Effort, C.7.h, School-age Children Outreach, C.7.i, General Outreach Material, C.7.j Commercial/Industrial/Illicit Discharge-Related Outreach, C.7.k, Outreach to Municipal Officials, and C.7.l, Research Surveys, Studies, Focus Groups, there are reporting requirements. They are also listed in the Summary Table but not listed in Section III. What is the requirement?

C.8 Water Quality Monitoring:

The Permit and the Summary Table list the lengthy requirements for C.8, Water Quality Monitoring. Nothing is listed for submittal. What is required?

C.9 Pesticide Toxicity Controls:

C.9.e has a reporting requirement for tracking the regulatory process. It is also included in the Summary Table but there is no submittal requirement. What is required?

C.9.f has a reporting requirement for coordinating with the county agriculture commissioner. It is also included in the Summary Table but there is no submittal requirement. What is required?

C.9.g has a reporting requirement for evaluating source control implementation. It is also included in the Summary Table but there is no submittal requirement. What is required?

C.9.h has a reporting requirement for public outreach. It is also included in the Summary Table but there is no submittal requirement. What is required?

C.10 Trash:

C.10.b seems in the text to have a separate reporting requirement. The Summary Table and list do not reflect this. Please clarify what is intended.

C.11 Mercury:

The items for C.11 are not in order. Please re-arrange to have them in alphabetic order.

Permit text for C.11.a requires reporting recycling amounts and estimates of mercury. This is also reflected in the Summary Table but there is no submittal requirement. What is required?

The Permit text as well as the Summary Table requires reporting for 2011 and 2012 but there is no submittal requirement for 2012. What is required?

The Permit text and the Summary Table reflect reporting for sediment removal but there is no submittal requirement listed. What is required?

The C.11.b submittal requirement is for 2010, not 2009 as listed.

C.11.h and i have reporting requirements in the Permit text and the Summary Table but there is no submittal requirement. What is required?

C.12 PCB's:

Provision C.12.a has a reporting requirement for training and it is in the Summary Table but nothing is listed for submittal. What is required?

Provision C.12.f as well as the Summary Table says that the reporting is for the 5 candidate stations for 2009 and 2012. It does not mention submitting the list of 20% nor does it mention 2010. Can this be clarified?

Provision C.12.g requires a PCB monitoring program. It is reflected in the Summary Table with reporting in 2009 and 2012. Section III does not list a submittal requirement. What is required?

Provision C.12.h requires reporting in 2009 and 2012. The Summary Table reflects this but there is no submittal requirement. What is intended?

Provision C.12.i requires reporting on implementation of a risk reduction program. The Summary Table reflects this as well but there is no submittal requirement. What is required?

C.13 Copper:

Under C.13, Copper Controls, provisions C.13.a regarding legal authority, C.13.b, regarding pool and spa discharge, C.13.c regarding brake pads, C.13.d regarding industrial sources all have reporting requirements in the Permit text, and all are reflected in the Summary Table. There is no submittal requirement listed. What is required?

C.15 Exempt and Conditionally Exempt:

Under C.15, Conditionally Exempted Discharges, there appears to be a reporting requirement for C.15.b.i. (1) required BMP's/control measures for groundwater, C.15.b.v (1) for pools and spas, and C.15. b.vi (1) for irrigation water. These appear to be collectively accounted for in the Summary Table. Shouldn't the submittal requirements be listed paralleling the Permit language?

Attachment L **Section IV Report Summary Table**

C.2 Municipal Operations:

C.2.a Street and Road Sweeping has as examples "high frequency 4" and "medium frequency 2" We understand these are examples but they don't square with the Permit language. Also, for the total roadway length, the example number for curb-miles seems extraordinarily high. Is the number sought the number of miles time the number of times those miles are swept (e.g. 200 total centerline miles per the street report x 2 for a curb on each side x 12 for being swept once per month equaling 4,800 total curb miles swept)? Or is the number sought the number of curb miles that exist to be swept?

Further, this section requires reporting the total roadway length swept at the curb "free of parked cars". This is an unacceptable and unreasonable requirement. There is no way that an operator can keep a certifiable/provable number while trying to operate the sweeper.

Finally, we have been reporting the annual total volume of material collected during sweeping. We assume that is still the number sought.

C.2.d refers to the BASMAA's "Pollution from Surface Cleaning, 7/1/96". This is an outdated document and does not require runoff diversion, only pre-dry sweeping or filtering of runoff.

C.2.f suggest in the "Comments", as an update, "the number of drain inlets that have been retrofit". The Permit requirement for C.2.f is to prioritize inlets not retro-fit. Retrofitting is a requirement of C.10.b.

C.3 New Development and Redevelopment:

C.3.d says to complete the C.3.b Reporting Summary Table. We assume this is the example after page L-110. Therefore, what goes here?

C.3.e says to complete Attachment C.3.e. If that is the case, what is to be reported in the Summary Table?

C.3.f says to report the alternative as required in C.3.b. C.3.b has no such reporting requirement. What is to be reported, where, and how?

The Summary Table seems to only have C.3.h.iii.(3) information fields. Section III talks about the submittals that are apparently (1) and (2). Does the Summary Table fulfill the (3) reporting requirement?

The text for C.3.g says to see the template. The Summary Table does not match the content for the required report to be the template. We assume the template is the C.3.b example.

The C.3 j item says to complete the reporting table. If this is the example at the end of Attachment L what is to go in the Summary Table?

C.4 Industrial and Commercial Site Controls:

For C.4.a there is nothing listed in Section III. Is this Summary Table information the full report?

C.5 Illicit Discharge Detection and Elimination:

There is nothing listed for C.5.a.iii. Is this Summary Table information the full report?

For C.5.b is this Summary Table information and the ERP the full report?

For C.5.c is this Summary Table information the full report?

For C.5.d is this Summary Table information and the MS4 Map the full report?

C.5.e calls for the attachment of a reporting table. What is then to go in the Summary Table?

For C.5.f is this Summary Table information the full report?

C.5.g appears to be a duplication of the information in C.5.b. Combine these sections.

C.6 Construction Site Controls:

C.6.a requires the inclusion of information adequate to demonstrate compliance. What format is required for this information as none is stipulated?

C.6.a is a duplicate of C.5.b. Clarify what is needed and where.

For C.6.b is this Summary Table information the full report? The Summary Table requires the reporting of NOV's. As noted earlier the text of the Permit no longer talks about NOV's (see text comment on C.6.b). This section also requires the reporting of the amount of fines assessed. The Permit text does not require the tracking of the amount of fines.

For C.6.c is this Summary Table information with the attached minimum management practices the full report? What is the attachment format?

For C.6.d is this Summary Table information the full report?

The required data for C.6.e is more detailed than stipulated in the Permit. Shouldn't these match the Permit? Is this Summary Table information with the construction inspections the full report? Is not coverage under the State permit and the violations to be reported here also? The permit also only requires reporting screening inspections when a violation is found, not all screenings.

For C.6.f what is to be reported here that doesn't belong in C.6.e?

For C.6.h what is to be reported here that does not fit in .e or .f?

C.7 Public Information and Outreach:

In the Summary Table there are a number of cases that state "in addition to answering the following questions, submit the attachment..." For the following entries it is not clear what the entire report is:

- We presume that the entries required for C.7.c are the full report.

- We presume that the entries required for C.7.d are the full report.
- We presume that the entries required for C.7.f are the full report.
- We presume that the entries required for C.7.h are the full report.
- We presume that the entries required for C.7.i are the full report.
- We presume that the entries required for C.7.j are the full report.
- We presume that the entries required for C.7.k are the full report.
- We presume that the entries required for C.7.l are the full report.

C.8 Water Quality Monitoring:

Section III does not list submittal for Provision C.8. This section says see C.8.h.iv, however C.8.e.v cites C.8.h.ii for reporting requirements. What is required?

C.9 Pesticides:

For C.9.c, Section III refers to an attachment that is not referred to here as has been done in earlier provisions. Is completing this section plus submitting the attachment the full report? Also, who is the certifying agency for IPM applicators and what are the standards that are being certified to?

C.9.d refers to specifying IMP practices for implementation by contractors, or hiring IPM certified contractors. The information we have from the Regional IPM Conference does not list resources for certification or standards for specifying qualifications for IMP practices to be used. They only seem to arise on an ad hoc basis. What is to be used? We presume that the copy of the procurement documentation and the entries required for C.9.d are the full report.

In the Summary Table there are a number of cases that state “in addition to answering the following questions, submit the attachment...” For the following entries it is not clear what the entire report is:

- We presume that the entries required for C.9.e are the full report.
- We presume that the entries required for C.9.f are the full report.
- We presume that the entries required for C.9.g are the full report. Also, the report requires estimating the number of PCO's and landscapers in a jurisdiction. Does this mean who work in the jurisdiction or who have a business address in the jurisdiction? As stated above under C.9.h regarding the Permit text this is impossible to estimate as there are numerous such service providers who operate on a referral basis, do not have an address or business license in the jurisdiction, and are likely operating from their home with out advertising.

C.10 Trash:

We presume that the entries required for C.10.d plus the SWAMP Rapid Trash Assessment attachment are the full report.

C.11 Mercury:

C.11.a mentions a collaborative effort that is not stated in the Permit text. We presume such collaboration is allowed.

From C.11.b it appears that the reporting requirement is attachment C.11.b. If that is true what is to be reported in the Table?

We presume that the attachment for C.11.c and the entries required for C.11.c are the full report. Also, the text talks about 2012 as well as 2011, what is required?

We presume that the entries required for C.11.d are the full report.

Considering the C.11.e attachment, what is to be put into the table?

We presume that the attachment and the entries required for C.11.f are the full report.

Considering the C.11.g attachment, what is to be put into the table?

We presume that the entries required for C.11.h are the full report.

C.12 PCB's:

We presume that the entries required for C.12.a are the full report.

Considering the C.12.b attachment, what is to be put into the table?

Considering the C.12.c attachments, what is to be put into the table?

Considering the C.12.d attachment, what is to be put into the table?

Considering the C.12.e attachments, what is to be put into the table?

Considering the C.12.f attachments, what is to be put into the table?

We presume that the entries required for C.12.g are the full report.

Considering the C.12.h attachments, what is to be put into the table for 2012?

We presume that the entries required for C.12.i are the full report.

C.13 Copper:

We presume that the entries required for C.13.a are the full report.

We presume that the entries required for C.13.b are the full report.

We presume that the entries required for C.13.c are the full report.

We presume that the entries required for C.13.d are the full report.

We presume that the attachment plus the entries required for C.13.e are the full report.

C.14 PDBS's, Legacy Pesticides and Selenium:

From C.14.a it appears that the reporting requirement is attachment C.14.a. If that is true what is to be reported in the Table?

C.15 Exempt and Conditionally Exempt Discharges:

From C.15.a it appears that the reporting requirement is attachment C.15.a. If that is true what is to be reported in the Table?

C.15.b talks about submitting a table in addition to answering the questions. Section III says provide attachment **C.15.b**. The Summary Table seems to be the accumulation of all the various discharge types and the information required by the Permit text. Shall we presume that completing the Summary Table is the full report?

Examples:

The template for C.3.b appears to have most of the fields required by provision C.3.b; however, O&M responsibility mechanism is not listed. Is this to be reported in this table?

The linkage between the Permit text, Attachment L and the template is a bit oblique. When use of Attachment L forms is stated, what forms are meant, there appears to be options? Is the required database to follow the form of the template or the Summary Table? Is the template optional? The information itemized in the Summary Table and the Template seems to be duplicative. Please clarify the reporting and minimize duplication.

The second template for C.11.f and C.12.f seem to be two formats of the same thing. Please clarify.

Again we request you give serious consideration to our comments and the impact of the new permit on the ability of our City to conduct its business.

Very truly yours,

Phil Vince
Town Manager